

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, February 11, 2014
6:30 p.m.**

SEQR = State Environmental Quality Review
PB = (Town of Bolton) Planning Board
WCPS = Warren County Planning Staff
APA = Adirondack Park Agency
LGPC = Lake George Park Commission
DEC = Dept of Environmental Conservation

Present: Jason Saris, John Famosi, Donald King, Matt Slaughter, Jeff Anthony, David Ray, John Michaels, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

Absent: Tony DePace

The meeting was called to order at 6:31 pm.

Jason Saris asked if there were any corrections or changes to the January 14, 2014 minutes.

RESOLUTION:

Motion by Don King to approve the January 14, 2014 minutes as presented. **Seconded by** Matthew Slaughter. **All in Favor. Motion Carried.**

- 1. V13-01 F.R. SMITH & SONS.** Represented by Chris Gabriels. For the construction of three additional commercial boat storage buildings, seek to amend V13-01 to include an area variance for **Density:** 20 acres is required. 4.92 acres exist. Section 171.00, Block 1, Lot 10, Zones **RR5** and LC45. Subject to PB, LGPC, WCPS, DEC and APA review. *NOTES: This item was tabled at the October meeting. See approvals granted on May 14, 2013 for deficient setbacks and lengths as follows: For the construction of three commercial boat storage buildings, seek area variance for 1) **Deficient setbacks.** **Front:** 200' is required from Edgecomb Pond Road. Building A-1: 50' is proposed. Building A-2: 155' is proposed. Building B: 150' is proposed. **Side:** 60' is required. Building B: 50' is proposed. **Shoreline:** 200' is required. Building A-1: 165' is proposed. Building A-2: 62' is proposed. Building B: 55' is proposed. **Length:** 120' is allowed. 122' is proposed for Buildings A-1 & A-2 and 162' is proposed for Building B. See SPR87-08 approved by the PB on 4/30/87 for commercial boat storage. This item was tabled at the January 2014 meeting pending additional information.*

Jason Saris reminded everyone that the Public Hearing was still open.

Atty. Frederick Killeen stated that they had submitted a screening plan to the Board.

Thomas Jarrett of Jarrett Engineers stated he consulted with Gould's Landscaping to discuss the existing buffer surrounding the site and any holes that could be filled in and how to enhance the buffer from the roadways. He stated that they feel that the northwest corner of the site is relatively well screened with a few holes in it. They suggest 9 six to eight foot high white spruce trees in that area and below there around the remainder of the perimeter site

bordering the roadway, it is mostly a deciduous buffer right now and it does not provide a lot of coverage in the winter. In the summer time it is fine so they are proposing a continuous row of white spruce that they think will be an effective buffer.

Jason Saris stated that it is a requirement of boat storage to be screened from the right of way and he would think this would be sufficient.

Jeff Anthony stated that the choice of white spruce would be ok and that 6 to 8 ft. would be a reasonable size. He said along Edgecomb Pond Rd. they were tight and a single row of planting would be acceptable. He suggested that along the Potter Hill Rd. side they consider doing them 20 ft. on center and put a staggered row in front of them in front of the spaces. He said Potter Hill Rd. is the more traveled road.

Don King stated he thought this would be more than adequate screening for this project during the operational season.

Town Counsel, Michael Muller summarized a letter from Jonathan C and Elizabeth F Low.

Jason Saris inquired if the Zoning Administrator's determination was for a Boat Storage facility and not a Marina. She replied that was correct. Jason Saris suggested in that case the Board was not here to discuss a use variance.

Atty. Cathi Radner representing adjacent property owners stated the following:

- Last month's minutes incorrectly reflected to the company HMB as H and B.
- She presented photos to the Board.
- In this zone, commercial boat storage is not allowed if it is screened, it is allowed if it is not visible, and it is currently visible.
- What was proposed in 1987 is not here at this time.
- They are proposing to double the size.
- White Spruce is a step in the right direction, but there has been no discussion as to date it is to be done, or for the maintenance of the buffer.
- If they are going to allow this variance, the Board has to be specific and make sure any conditions are articulated and made part of this approval.
- The screening issue aside if it is still visible from the road, it does not meet the criteria of Type II site plan review.
- This is a self created substantial change and it's not necessary.
- They told you they only wanted to have 125 boats and they have not explained why they needed 4 buildings to do that.
- They could go with less, and move it further from the road.
- It is not in keeping with the neighborhood.

Peter Barrett, President of HMB.

He expressed his displeasure with this Board's disregard for the 1987's Board approval and covenants.

He wanted to address the issue of recusal and stated that Chairman Saris and Mr. DePace are in the Marina business and he can't see how this is not a conflict of interest in an affair such as

this. He stated that there were discrepancies in the January 14th meeting stating that the applicant states there will not be any quick launch from this site or shrink wrapping. He said that in the applicants letter to Chris Gabriels of June 2013, he specifically states that there will be quick launch and shrink wrapping which would trigger this to be a use variance and he would appreciate clarification.

Jason Saris asked Zoning Administrator, Pamela Kenyon if a variance or site plan review was granted previously. Pamela Kenyon stated that it was site plan review. Jason Saris explained this means they never appeared before the Zoning Board of Appeals in 1987, they went before the Planning Board, for site plan review which is required as it is an allowable use in that zone. The Planning Board can and do put conditions on a project and the applicant will have to go through site plan review again if they get approvals from the ZBA. Zoning Administrator, Pamela Kenyon stated that the quick launch is no longer part of this application.

Jason Saris stated he addressed the issue of personal conflict at last month's meeting stating it is impossible not to have ties to many people in the community. He said that the project could or could not affect his business and quite frankly there is no conflict.

Mark Roden stated:

- The screening does nothing to inhibit noise as far as he can tell.
- When you bring in tractor trailers you will have noise issues with idling engines.
- You will have people out doors hoisting boats off trailers which gets back to the Marina business.
- The A.P.A. 's current approval out lines no washing.
- Shrink wrapping and washing the boats is cloudy in his mind.
- How many boats do they plan to store on site and if they will be washed and shrink wrapped.

Scott Andersen replied that they plan on washing up to 200 boats. They do not plan on doing much shrink wrapping there due to the fact that they are providing indoor storage. They plan on storing 125 boats and the intent of the boat washing is to keep everything as far from Lake George as they can. Mark Roden stated that he was told by F.R. Smith staff that they do 300 boats. Scott Andersen replied that not every boat they do, gets washed. Mark Roden asked why all the development was concentrated by the Conservation Park. He stated they would be changing the character of the neighborhood. He expressed his concerns with the density and this project was all self created. He does not believe this is legal and F.R. Smith should apply for commercial zoning and this project deserves more thought.

Rich Larkin

- Fred Smith bought the property from the Conservation Club for boat storage.
- He commends F.R. Smith on employing so many people in the community.
- He hopes they take careful consideration to this parcel of property.
- This project is not congruent to the neighborhood.
- He does not know the right answer but hopes the Board gives it serious thought.

Matthew Slaughter asked if it was the visual aspect or the noise he was objecting to. Mr. Larkin stated that the screening was not sufficient, and the congestion and the traffic would not be in keeping with the neighborhood.

Barry Kincaid inquired about the screening by the Conservation Park nature trails. He asked that they use small evergreens on the upper western corner to screen the nature trail.

Atty. Frederick Killeen reiterated that we are not here for a use variance and this is not a Marina. The Zoning Administrator has already made a determination as to what the uses in a boat storage facility are. They are prepared to do any additional screening necessary.

Tom Jarrett replied that he was sure they could add some trees and the fence that was closer to the building can be relocated to that corner and the combination would probably enhance that screening. Don King asked if the portion of fence by the building would be relocated on the corner of the property line where the nature trail runs up close to property. Tom Jarrett replied that the fence that crosses the new driveway and then turns to the east, almost along the property line, needs to be relocated to the north along the property line which will help the separation. Barry Kincaid conferred with Tom Jarrett and agreed that moving the fence would help with some low evergreens to fill it in. Atty. Killeen stated the applicant would be fine with that.

Don King asked Mr. Andersen about the amount of big truck traffic and if it would be for the delivery of new boats. Mr. Andersen replied that it would, and explained that a tractor trailer holds between 4 and 5 boats. He stated that historically in the past 20 years there has been 2 or 3 trucks unloaded per year. He stated that the hoist to wash would be the same hoist they would use to lift them off. He said this usually occurs in early May or late fall. Don King asked if he was talking about big heavy duty tractor trailers. Mr. Andersen replied no.

Sally Defty requested that the applicant screen the area between the storage area and the Conservation Park with evergreens that would screen the two properties all year long.

Jason Saris asked Town Counsel, Michael Muller about putting conditions on a potential variance. He asked about items that would be considered a violation and if they would be redundant. Town Counsel, Michael Muller said they would not have to go through a list of items if they are not allowed. Atty. Muller stated that any conditions they would have, needed to be included in the approval. Jeff Anthony stated they have the right if they want, to say that these other activities can't be undertaken without the issuance of a use variance and put that in as a condition. Atty. Muller replied that it is stated and it is true, and if the Board failed to put them in, they would still be true. Jason Saris stated that if they missed something it would still be prohibited. Atty. Muller stated they had a question about quick launch being a possibility at an earlier date and they studied and considered it and the answer was no. Once that was resolved, there was never a doubt with the applicant that they might be doing it at a later date.

Now, upon motion duly made by Don King and seconded by Jeff Anthony, to close the Public Hearing portion of this application. **All in Favor. Motion Carried.**

Jason Saris stated that he was not concerned that it was a marina, and this application is an allowable use in the zone and they are not here for a use variance. He said that with the increased screening they have come a long way to meeting the requirements of this zone. He stated that the old interpretation of the zoning which was that these were not all principle buildings and although the zoning is kind of in conflict with itself, the old interpretation makes more sense to him. If this was a single family dwelling and these other buildings were barns, sheds, guest houses or boat houses, it would not be a problem. He stated it was not just about the number of structures on a piece of property as we clearly have residential properties with this many structures and more on it. He explained that the way the Board looked at it in the past make more sense.

Matthew Slaughter stated that he feels that the majority of the objections have deal with screening and the visual impacts of this property. He stated that he feels the applicant is doing a fair amount to address this issue.

Don King said that it would seem that it is more desirable when you're having boat storage facilities, that you would have them under cover. He stated that it is his understanding that the boats that will go under cover, would need a lot less shrink wrapping, which is somewhat of an eyesore in itself. These boats can be parked in the buildings and these structures will have closed sides on the road side, which is additional screening. He believes these building would not be out of character that you would find up and down all of the roads in the Town of Bolton. He stated the truck traffic on even a very successful year, would only be a fraction of one percent of the traffic and were not the like the heavy duty log trucks, etc. that run up and down these roads on a daily or weekly basis.

John Michaels stated one of the points by far is the density and the applicant could store all these boats outside if they chose to. He stated if the applicant wanted, he could connect all of these structures with a breezeway and they would probably would not being dealing with the density issue. He made reference to four single family dwellings being placed on this parcel as opposed to four commercial boat storage structures and the impact that they would have including water, septic, traffic, school etc. In his opinion this would have a greater impact on the area.

John Famosi stated that he does not think that this change represents a change in use. He believes once the proposed screening is put in place versus just having shrink wrapped boats stored outside, the impact will be minimized and this mitigates the screening issue. He believes that if the increased use is concentrated in a certain time period the increased impact will be too great.

Jeff Anthony stated that there needs to be a list of conditions included if they approve this project. His suggestions were guarantee of maintenance of buffers, and other aspects of the way that materials are placed on the site and the character of the buildings be considered as well as requiring the stormwater management that is proposed.

David Ray believes that the applicant has come a long way in terms of the screening and such and he thinks there should be a maintenance plan in place to replace the trees if they should die off so the screening is kept intact.

Matthew Slaughter asked if the screening does not survive would it be a violation or would that depend on the language of the variance. Atty. Muller replied it would be the language of the variance and more particularly the language of site plan approval should be specific about your expectation of longevity in this green buffer. He explained that in the past they have tagged trees, but he would suggest they should leave some room for the Planning Board to design this property management or maintenance plan. They could make this a condition of approval but allow the Planning Board to detail it.

Atty. Muller stated if they were to approve this application with their conditions they would have to base their decisions on substantial findings of fact, and be precise as to why they would approve this and that this would meet the requirements if it went to judicial review, which would require taking a hard look at Section 200-65 and making sure the criteria is satisfactory and factually based on what they have heard at this public hearing and from the applicant. In addition they would have to abide by Section 200-67B which is subject to A.P.A. review and take into account some discussion of the practical difficulty. He also explained that although this is no longer a requirement of town law the A.P.A requires it.

RESOLUTION

The Zoning Board of Appeals received an application from F.R. Smith & Sons (V13-01) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;

this Board makes the following findings of fact:

The application of the applicant is as described in Item#1 of the agenda.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; The applicant went out of their way to obtain additional property or rights to achieve the amount of square footage that would make this variance mute in terms of the area variance, which they documented with numerous letters and discussions over an extended period of time. This not having been achieved the applicant moved forward with this project.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, The property has been used as a boat storage facility for a number of years. They discussed at length the number of boats to be handled in the spring and fall. The applicant has indicated the bulk of activities on site are to be done prior to the summer season (end of May) and after Labor Day, which minimizes the disruptive activities to the neighborhood in the summer season.
- 3) The request is not substantial; there could be one principle building at 11,000 sq. ft. and this applicant is proposing less than 11,000 sq. ft in four buildings. It's possible in these two zones that a proposal for a commercial use structure that involves the distribution of service,

warehousing, storage of boats could have one building that has 11,000 sq. ft in it and have an as of right application and not have to seek any variances, which concludes that this application is not substantial.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; Visual aspects of the boats and buildings with proper vegetative screening will be sufficient along the roadsides. The traffic of large trucks will be a modest amount of two to three times a year in the spring and fall. Minimization of traffic in and out of the facility during the summer season will be due to the large majority of boats being in the lake during that period. These roads are also transited by logging, garbage and town maintenance trucks etc. which is all fairly minimal and the boat traffic has been minimal throughout the years. Ascetically the site is much improved. One concern will be addressed along the Conservation Park and the nature trail by condition of approval.

5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. Part of the practical difficulty is that it is an existing boat storage site with an existing structure, the allowable amount of footage for this commercial activity can't be achieved by a single building. Maneuverability and access has to be considered in accommodating this allowable activity. One structure is really not feasible.

Now, upon motion duly made by Don King and seconded by Matthew Slaughter, it is resolved that the ZBA does hereby approve the variance request as presented with the following conditions:

1. The buffer along Potter Hill Road is to be a staggered double row of white spruce with a spacing of 20 ft. on center.
2. Prior to the issuance of a Certificate of Occupancy all planting must be installed and deemed acceptable to the Zoning Administrator.
3. All buffer plant materials must be maintained into perpetuity and upon disease or death of any material they must be replaced within 6 months.
4. The Zoning Board requests that the Planning Board consider screening and planting design between the project and The Conservation Park, which could include:
 - a. Relocation of the fence, planting shrubs in front of the fence on the Conservation Park side and adding trees in that area.
 - b. Requiring earth tone colors on all the buildings and
 - c. All lighting to be dark sky compliant.
5. No storage of boats outside will be visible from the surrounding roadways.
6. This property is not to be used as a quick launch facility.

All in Favor. Motion Carried.

2. **V13-46 KEATING, JOE.** Represented by Howard Raymond. To alter non-conforming single family dwelling, specifically to allow an approximate 10' x 12' deck to remain, seeks area variance for 1) a deficient front yard setback. 75' is required, 65' is proposed, and 2) To alter non- conforming structure in accordance with Section 200-57B(1)(b). Section 140.00, Block 1, Lot 38, Zone RL3. Property Location: 151 Padanarum Road.

Mr. Raymond explained the following:

- There was an addition put on the structure requiring a variance 4 years ago.

- Mr. Keating was under assumption that he could add this deck upon receiving the variance.
- They now understand they need another variance for this deck.

Jason Saris asked when the deck was constructed. Mr. Raymond replied this summer. Jason Saris asked when the initial variance was received and Mr. Raymond replied 4 years ago and then the deck was added this year assuming this was part of that variance request. Jason Saris asked if the deck was part of the original variance. Mr. Raymond said it was not. Jason Saris asked if the homeowner was aware of the variance he requested 4 years ago. Mr. Raymond replied that he was not aware of that. Zoning Administrator, Pamela Kenyon stated the variance was granted in 2007 and the deck was not part of the variance granted.

Jason Saris stated that people that have been through the variance process are usually familiar with the process and he would expect they would know if the plans they submitted had a deck or not.

RESOLUTION

The Zoning Board of Appeals received an application from Joe Keating (V13-46) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;
this Board makes the following findings of fact:

The application of the applicant is as described in Item#2 of the agenda.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; The deck is already built.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, It's on the back side of the road and in a remote location.
- 3) The request is not substantial; it's a very small deck.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; It's minor.
- 5) The alleged difficulty is not self-created;

The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by John Michaels and seconded by Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

- 3. MARKI, BERNARD & PATRICIA.** Represented by the Atty. Thomas Ulasewicz. In accordance with Section 200-72 of the zoning ordinance, seek to appeal the Zoning Administrator's interpretation whereby determining that wildlife rehabilitation undertaken

on those parcels designated as Section 171.07, Block 2, Lots 37 & 38 is not considered an artisan activity. If the Board determines that an artisan activity exists 1) are the cages in excess of 100 square feet considered an accessory use structures? And 2) Is wildlife rehabilitation and its facilities (cages in excess of 100 square feet) customarily incidental and subordinate to a residential use where the residents are bona fide trained, skilled and licensed wildlife rehabilitators? Zone RCM1.3. Property Location: 2 Braley Point Road.

THIS ITEM WAS TABLED

4. **V14-01 BIXBY, ETHAN & TRUDY.** Represented by Curtis Dybas. To alter non-conforming single family dwelling, specifically to remove two existing additions, completely renovate farmhouse and incorporate two new additions, seek area variance for 1) a deficient front yard setback. 75' is required, 16' is proposed, and 2) To alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 140.00, Block 1, Lot 9, Zone **RL3** & LC25. Property Location: 575 Federal Hill Road. Subject to WCPS review.

Curtis Dybas explained the following:

- This is formerly known as the Herman property.
- It is an 1826 farmhouse on 92 acres of land that the Herman's set up with the LGLC.
- The application before the Board has been approved by the LGLC.
- They are planning on gutting and removing 2 additions.
- They will be raising it up and putting in a new foundation and adding two new additions with an increase of 61 sq. ft.
- There was a new septic installed in 1993 for a 3 bedroom house and a new drilled well in 1998.
- Basically it is a gut out and redo, to put it back to the original character.

Don King asked if the stone well was the drilled well. Mr. Dybas replied no.

Jason Saris stated this was pretty much consistent in old homes with the need for a little more room.

Letter from Warren Rosenthal in favor.

RESOLUTION

The Zoning Board of Appeals received an application from Ethan & Trudy Bixby (V14-01) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;

this Board makes the following findings of fact:

The application of the applicant is as described in Item#4 of the agenda.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; We are dealing with a historic structure and the applicant's are trying to replace the additions with ones that are more consistent with the structure with minor extra space.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, Farm house will essentially remain in the same spot with the same character, and it will improve the neighborhood by being a building in better repair.
- 3) The request is not substantial; 61 sq. ft. is hardly substantial, and the setback variances are due to zoning changes after the house was built.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; virtually no changes to the sight.
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. This is a pre-existing non-conforming structure.

Now, upon motion duly made by Jeff Anthony and seconded by Don King, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

- 5. V14-02 LINDER, MARY.** Represented by Clarence Linder. For a proposed lot line adjustment between those parcels designated as Section 171.18, Block 1, Lots 15 & 16, seeks area variance for deficient density. 1 acre minimum is required. .94 acres is proposed for lot 171.18-1-16. Zone RL3. Property Location: 88 Mohican Road. Subject to APA review.

Clarence Linder stated the proposed lot line shift is so the homeowner does not have to come for area variance when she renovates the house.

Jason Saris asked why it was under A.P.A. review. Atty. Muller replied for density.

Jason Saris asked Mr. Linder what the practical difficulty was. Mr. Linder stated the practical difficulty was that the applicant did not want to spend a lot of money on architectural design to come before the Board for a lot line setback and be denied. Jason Saris said this means they would not need a setback variance if they had a lot line adjustment. Atty. Muller stated that this lot line adjustment would make this small lot more conforming and the basic analysis of practical difficulty has to do whether or not denying a variance serves any valid public purpose. The practical difficulty is that this is a pre-existing non-conforming structure on a pre-existing non-conforming lot that would be by virtue of the grant of this variance be more conforming.

Don King asked if this would still be a pre-existing non-conforming structure. Atty. Muller replied this would only improve the lot.

Jeff Anthony asked if the expansion of the lot would be enough land to allow the structure to be increased in size so they would not have to come back in the future. Mr. Linder replied it

would fall within the 20 ft. setback, it would only need a variance for a non-conforming structure.

John Michaels stated that this was one of the rare instances where a dual application makes sense. He does not typically like to entertain an application where he does not see the big picture but the fact that the applicant would need to spend so much on drawings and the lot line is 200 ft., this would fit in with that exception.

RESOLUTION

The Zoning Board of Appeals received an application from Mary Linder (V14-02) for an area variance as described above.

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item#5 of the agenda.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; Does not involve any structures at this time.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, It will be an improvement.
- 3) The request is not substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; Not changing stormwater.
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. This is pre-existing non-conforming.

Now, upon motion duly made by John Michaels and seconded by Matthew Slaughter, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

6. **V13-39 CECCHINI, LOUIS & ARLINE.** Represented by Gary Hughes. To alter non-conforming single family dwelling, specifically to renovate front roof framing from 6:12 & 2:12 pitches to 4:12 pitch and add a 16'x 24' garage /storage, seek area variance for 1) deficient front yard setback. 50' is required, 5' is proposed; 2) To alter pre-existing non-conforming structure in accordance with Section 200'57B(1)(b). For the construction of a proposed retaining wall, seeks area variance for a deficient front yard setback. 50' is required, approximately 2' is proposed. Section 171.11, Block 1, Lot 62, Zone RL3. Property Location: Northbrook Co-op Unit 7. Subject to WCPS review. The roof renovation was approved at the October 2013 meeting. The garage portion was tabled pending grading and stormwater plans.

Michael Cecchini stated that back in October they proposed 3 things, restructuring the roof, adding a garage and installing a driveway to the garage. The Board was gracious enough to grant the application for the restructuring of the roof and tabled the remaining items pending more information on the grading and stormwater plans. He has been working with Devin Dickinson and Gary Hughes putting a plan together that should mediate the impervious cover to be created by the garage and the extra asphalt that will take the place of the present asphalt walkway. They will establish a rain garden and trench along the garage to mitigate the stormwater runoff. There are no stormwater controls at this time with the existing sidewalk and the new asphalt area will be pitched to the new rain garden. The gravel trench along the garage will take care of any runoff from the garage roof.

Don King stated he did not see any elevations on the plans which the Board members had asked for. Devin Dickinson said he did not do a full blown grading plan as there would not be very much grading done. He stated that the proposed drive actually follows the pitch and path of the existing walkway, and it is certainly something he could add to the plans. Jeff Anthony said the reason they asked for a grading plan was so they could understand the extent of earthwork or disturbance to either side of the driveway, since there is a neighbor who had concerns about the construction disturbing their house. Mr. Cecchini explained that there was an existing asphalt pathway that exists and they are technically adding to it. He said they were taking it out so there would not be a seam in the driveway, but it is a gradual, gentle slope which they do not plan on changing. They will not be making any cuts and the grade as it is right now, naturally lends itself as a gradual grade to the garage. This grade is much less than the entrance to the property.

Don King stated the neighbor to the right had concerns, and the plans don't accurately depict the amount of fill and disturbance that will be taking place. Mr. Cecchini stated that he spoke at length with neighbor and her last words were good luck. He provided her with copies to show how these would or would not affect her. The association voted and approved this project.

Don King asked about the retaining wall to the right of the new addition. Gary Hughes stated that the retaining wall would not be part of the plan. Mr. Cecchini explained that it would not be needed due to the new stormwater remediation.

Jason Saris asked if they were amending the application to no longer include the retaining wall. Mr. Cecchini replied correct. Jeff Anthony asked if they would just put it on paper for the Board so they could see it correctly and understand it as they have nothing to go by. He said this is what they had asked for the last time they were there. Devin Dickinson stated they could definitely do this. Mr. Cecchini stated the only excavation was for the footings for the garage.

Jason Saris stated they could proceed, but the application was tabled pending grading and stormwater plans and the Board would like to see it. Devin Dickinson responded that he was under the impression it was about the pitch in the drive. Mr. Cecchini stated that if this was the requirement then they could do it. Jason Saris stated it was not a requirement it was a request and he should tell the Board how he would like to proceed.

Mr. Cecchini asked if the Board was looking for a topo with specific grades. Jeff Anthony replied that it could just be spot grades if it's that flat. John Michaels asked that they remove the retaining wall from the map if it is not part of the application. Jeff Anthony said the Board wanted to know how extensive it was, as the applicant is saying the total disturbance is 3,500 total sq. ft. and he couldn't tell if it was 3,500 sq. ft. or 2 sq. ft. because he can't see the grade.

Mr. Cecchini asked what the feeling of the Board was about the garage. Jason Saris suggested he had no problem with the garage. His only concern is that this project is not going to create problems anywhere else. John Michaels and Jeff Anthony agreed. Mr. Cecchini asked if there was anything else the Board would like to see. Don King said spot grades would be fine, the Board needs to make sure that this project would not be dumping water on to lot 8.

Mr. Cecchini stated that it is not the neighbor's yard it is a common area, and he understands what they are looking for.

RESOLUTION

The Zoning Board of Appeals received an application from Louis & Arlene Cecchini (V13-39) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;
this Board makes the following findings of fact:

Now, upon motion duly made by Jeff Anthony and seconded by Matthew Slaughter, it is resolved that the ZBA does hereby table the variance request pending additional information.
All in Favor. Motion Carried.

- 7. V14-03 BOYNTON, CASSIMER.** Represented by Brian Sawm. To alter non-conforming single family dwelling, specifically to raise the roofline 8', seeks area variance for 1) deficient side yard setback. 20' is required, 3' is proposed; and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 200.18, Block 1, Lot 43, Zone RM1.3. Property Location: 4148 Lake Shore Drive. Subject to WCPS review. See V13-26 for previous approvals.

Brian Swan stated:

- They are proposing to raise the existing roof line 8 ft.
- They have a second floor with 5 ft. knee walls and they would like to move them out and raise it to 8 ft.
- They would be staying in the same footprint.

Jason Saris asked if ascetically it would stay the same. Mr. Sawn replied yes, they were not changing the appearance of the outside.

Town Counsel, Michael Muller read a letter from neighbor Jerry Stasburg in favor of the project.

RESOLUTION

The Zoning Board of Appeals received an application from Cassimer Boynton (V14-03) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;
this Board makes the following findings of fact:

The application of the applicant is as described in Item#7 of the agenda.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; Rather than moving outward, they are moving upward and staying with an acceptable height.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, They are keeping the character of the building, it will just be taller.
- 3) The request is not substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; They are avoiding that.
- 5) The alleged difficulty is not self-created; This is a pre-existing non-conforming structure.

Now, upon motion duly made by Matthew Slaughter and seconded by John Famosi, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

- 8. V14-04 KINCAID, BARRY.** For a proposed lot line adjustment between those parcels designated as Section 186.00, Block 1, Lots 35 & 36, seeks area variance for deficient density. 3 acres are required, 2.12 acres is proposed for parcel 186.00-1-36. Zone RL3. Property Location: Brookside Parkway. Subject to WCPS and APA review.

Barry Kincaid explained:

- His parents had bought 3 deeded lots.
- One lot with house in 1970.
- They bought the other side of the power line in 1972.
- They then bought the 3rd lot.
- They bought it all in one deed.
- 2 separate lots, 2 separate tax parcels and 2 separate tax bills.
- The power line went through in 1953 and National Grid owns it.

- They needed a minor subdivision years ago with 4 lots on it.
- A.P.A. has a problem with lot 4 due to wetlands.
- The A.P.A. now says it is not two separate lots, it is one lot.
- They have been paying taxes on two separate lots since the 70's.
- The previous owners were paying separate taxes on these lots before the A.P.A originated.
- He needs to resolve this issue and his attorney tried to address this with the A.P.A.
- After all this the A.P.A has agreed that if he moves his lot lines over past the wetlands, they would have no jurisdiction.
- His request is to move the lot line 35 ft.
- They would still be over minimum lot size by one acre.

Don King asked if they would only be moving the one line over. Barry Kincaid replied yes.

Jason Saris asked if the practical difficulty is the presence of the wetlands. Atty. Michael Muller replied yes and the requirements imposed upon this applicant in order to get non-jurisdictional determination from the A.P.A. is also a practical difficulty. He stated that the need to uphold our ordinance vs. the need that he has to achieve this compliance with a non-jurisdictional letter out ways the towns cause. Barry Kincaid stated the town has been billing him for 2 separate tax parcels.

Don King asked if the parcel with the house was connected to any of them. Barry Kincaid replied no.

RESOLUTION

The Zoning Board of Appeals received an application from Barry Kincaid (V14-04) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;
this Board makes the following findings of fact:

The application of the applicant is as described in Item#8 of the agenda.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; There is a practical difficulty where the wetlands are presently located and in the effort to achieve compliance with the A.P.A. regulations this is the relief necessary.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, no change to the neighborhood and it will be an improvement from the environmental standpoint.
- 3) The request is not substantial; we're talking about moving the property line away from the wetland.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; This will be an improvement to the buffer of the wetlands.

5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. These lots were created in the 1950's and have existed as parcels in the Town of Bolton and they are of no fault of the applicant.

Now, upon motion duly made by Don King and seconded by John Michaels, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

The meeting was adjourned at 9:13 pm.

Minutes respectfully submitted by Kate Persons.